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Subject: Third Staff Draft Delta Plan -- California State Parks" comments
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Attachments: [Delta plan comments May 5\[1\].doc](#)

Thank you for the opportunity to review and comment on the Third Staff Draft Delta Plan. Restoring the Delta's and Suisun Marsh's ecosystem and improving the reliability of Delta's water supply can aid recreation, both within the region and at reservoirs south of the Delta. Many of the plan's proposals can enhance these values, providing improved conditions for angling, wildlife observation, and water contact that provide so much of the water-related recreation within the region and also reducing interruptions in the water that supports recreation at reservoirs dependant on Delta diversions.

We are concerned, nevertheless, about the plan's ability to achieve the objective of protecting and enhancing the unique cultural and recreational values of the Delta and Suisun Marsh, which the Delta Reform Act recognizes is inherent in its goals of providing a more reliable water supply and restoring the Delta ecosystem. Several policies in the draft plan can create substantial barriers to protecting and enhancing the Delta's and Suisun Marsh's recreational opportunities and cultural assets. In addition, little in the current draft of the plan offers new incentives or other opportunities to attain the Act's objectives of better recreation and cultural resource protection.

Our comments are attached. Please feel free to call me if you would like to discuss them further or if we can provide additional information.

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Third Staff Draft Delta Plan -- California State Parks' comments
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Covered actions. California State Parks and other outdoor recreation providers carry out a wide variety of activities to operate, maintain, improve, and encourage outdoor recreation in the Delta and Suisun Marsh. These include maintaining and operating existing recreation facilities and programs, expanding or improving outdoor recreation areas, awarding grants and other funds for recreation projects on other public agencies' or private landowners' properties, and providing a wide variety of public information about recreation opportunities. Many of these recreation opportunities are tied to the waterways and natural resources of the Delta and Suisun Marsh, and almost every recreation area there is located with a floodplain of some kind.

To avoid creating unanticipated barriers to outdoor recreation, therefore, it is important that the definition of 'covered action' on p. 36 carefully circumscribe the term 'significant impact on the achievement of one or both of the coequal goals ... or the implementation of government-sponsored flood control programs' Routine, low impact activities should be clearly excluded from the definition of 'covered actions' by providing an exclusion for activities that are eligible for statutory or categorical exclusion from CEQA. Routine maintenance and operation of park and recreation areas and facilities should also be excluded, treating them similarly to the water project and flood control project maintenance that are already excluded from 'covered actions'.

In addition, care should be taken in determinations about projects that 'will occur, in whole or in part' within the Delta or Suisun Marsh. The plan should clarify that covered actions will have a direct physical effect on land or water inside the area. Projects that are tied to the Delta or Marsh only through their purpose or need, that affect air, noise, living resources, the intensities of activity, or other attributes without directly affecting land or water should not be covered actions.

Our experience with other agencies' incremental expansion of regulatory oversight of recreation activities emphasizes why it is essential to carefully limit 'covered actions'. On the coast, for example, regulation that was initially limited to development of recreation facilities or significant alteration of natural landforms and vegetation has grown over 30 years so that today coastal regulators claim oversight of park user fees, hours of park operation, recreation activities that occur at long established parks, and special events such as holiday celebrations. Extensive, smothering regulation creates a significant barrier to recreation, especially when park agencies' budgets are constrained, and will frustrate attainment of the Delta Reform Act's objective of protecting and enhancing recreation.

Managerial and fiscal capacity. Policy GP 1(3) on p. 36 should be revised to better reflect the situations of park and recreation agencies whose support depends on a general fund or on general obligation bonds. California State Parks is typical of many such agencies. Its achievements in protecting outstanding natural and cultural resources and providing high quality recreation have occurred despite instability in its funding and periods of inadequate capital and financial planning. Rather, park and recreation assets are protected and improved by incremental commitments to expanded resource protection and facility development, periods of plenty alternating with periods of want, and an evolving capacity to manage resources in our trust. Moreover, opportunities to create long term endowments or other durable fund sources are limited by the laws governing use of the general obligation bonds on which we often depend for capital and by other state or local statutes. In this regard, recreation agencies are no different than many other public organizations, including those providing transportation, flood control, or other vital functions. Because Policy GP(1) is vague about what sort of ‘financing plan’ or ‘financial capacity’ would be ‘relevant’ to a covered park or recreation action, it is hard to judge how it would be applied, but misapplication may create significant impediments to recreation improvements or the protection of park resources.

Improving habitat . The term ‘floodplains’ in policy ERP4 should be defined. Almost any property in the Delta and Suisun Marsh is on a floodplain of some recurrence. Referring to a flood interval, such as 100 years, that is already mapped through FEMA or some other standard practice would ease compliance with this policy.

In Policy ERP5, the term “increased connectivity between land and water” needs definition. It is unclear whether this policy is encouraging removal of levees, increased stormwater discharge, or some other type of connection between land and water. Local and regional land use plans ought also to be defined as general plans adopted pursuant to Government Code Section 65350 or the Delta Protection Commission’s Land Use and Resource Management Plan.

Reduce Risk. In policy RR P2 the term ‘potential floodways’ or ‘potential floodplains’ should be defined. The floodplain definition proposed in Footnote 11 on p. 69 is too broad to have practical value. Almost any property in the Delta and Suisun Marsh is “susceptible to being inundated by floodwaters from any source”. Referring to a flood interval, such as 100 years, that is already mapped through FEMA or some other standard practice would ease compliance with this policy.

Table 7-1 on p. 91 needs revision to describe flood standards for recreational land use, which do not otherwise fit into any of the land use categories listed. Many of the Delta’s visitor serving recreation uses, such as parks, marinas, resorts, and hunting clubs, depend upon access to water for boating, waterfowl hunting, or other recreation pursuits. Facilities to support recreation use should

be floodproofed at a level appropriate to the project, but requiring that recreation uses locate behind levees is not feasible and will effectively prohibit water-related recreation uses. The term 'legacy town' should be defined and the qualifying communities should be listed.

Policy RR P5 should be reconsidered. Its intention of protecting opportunities to set levees back from current locations is well intentioned. But in the absence of a flood control plan that assigns flows to each channel and establishes levee heights, it seems unlikely any engineer could determine whether adequate area had been retained to accommodate a setback levee, as the extent of any setback would depend on those other aspects of a flood control plan.

Finance Plan Framework. The principles that guide this section should recognize the need for a targeted finance plan for the protection and enhancement of the Delta and Suisun Marsh's unique cultural and recreational values, which the Delta Reform Act recognizes are inherent in the goals of providing a more reliable water supply and restoring the Delta ecosystem. Unless funds are provided, the Act's objective of protecting and enhancing these cultural and recreational values will not be attained.

There is no current source of funds to protect and enhance Delta and Suisun Marsh's unique cultural and recreational values. Current state law, Public Resources Code Sections 11912 and 11913, provides that the general fund should support recreation associated with the State Water Project, rather than pass recreation's costs on to the project's water and power beneficiaries. Appropriations from the general fund, however, have dropped steadily, and are inadequate to operate and maintain the state's existing recreation improvements. Increases in this funding are unlikely in the foreseeable future. The water bond currently scheduled for a 2012 vote, the Safe, Clean and Reliable Drinking Water Supply Act, includes no funds for recreation in the Delta or Suisun Marsh. The Delta Reform Act establishes a Delta Investment Fund to implement the Economic Sustainability Plan, which may consider recreation facilities or programs, but a source of funds for the Delta Investment Fund remains unspecified.

For Californians to enjoy the recreation opportunities of the Delta and Suisun Marsh, the arrangements for funding recreation there will need upgrading along with the Delta's water supply facilities and ecosystem. The finance framework and associated policies should recommend funds for Delta and Suisun Marsh recreation.

